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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Eighth periodic report due in 1992

SUDAN*

[15 April 1994]

1. The following additional information is supplied by the Sudan under article 9.1 of the International Convention on the Elimination of All Forms of Racial Discrimination, prepared in the light of the concluding observations of the Committee on the Elimination of Racial Discrimination on the eighth periodic report of the Sudan.

Steps recently taken to enhance the enjoyment of human rights in the Sudan

2. Many important positive constitutional developments in the field of human rights have taken place in the Sudan since the presentation of the eighth periodic report of the Sudan in March 1993. These developments have already had a marked impact on the enjoyment of human rights in many parts of the Sudan, particularly in the war-affected areas in the south and in western Sudan. Some of those developments are the following.

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* The present document contains information further to the fifth, sixth, seventh and eighth periodic reports of Sudan, submitted in one document (CERD/C/222/Add.1). For the summary records of the meetings at which the Committee considered those reports, see CERD/C/SR.968, 970, 971 and 983.

GE.94-16452 (E)

3. Constitutional Decrees Nos. 7, 8 and 9 were promulgated in October 1993. These Decrees embody a number of human rights and fundamental freedoms and obligations, prominent among which are the following:

(a) The equitable sharing of national wealth and political power among the various states: more states have been created in order to create employment opportunities and widen the base of the masses sharing in the administracion of the country by getting rid of the shadow of central authority;

(b) The right of the citizen to choose his religion without any compulsion and not to be discriminated against because of his faith, beliefs, social or financial standing;

(c) The right of the citizen to freedom of expression; to have his property protected against confiscation; and to an economic system based on a market economy.

(d) Reaffirmation of the independence of the judiciary;

(e) Provisions of the Constitutional Decrees also provided for the protection of the rights of children and women;

(f) The right of movement or travel and choice of place of residence have also been guaranteed.

4. More important than all the above is the dissolution of the Revolutionary Command Council for the National Salvation Revolution and the transfer of legislative powers to the Transitional National Assembly (Decree No. 9 of October 1993). Thus a period of constitutional legitimacy characterized by the pre-eminence of the rule of law has started. This has replaced the popular revolutionary legitimacy derived from popular mass support. From now on major issues of national concern will be debated by Members of the Transitional National Assembly before a final resolution is adopted.

5. Other steps taken to enhance the enjoyment of human rights in the Sudan include the following.

6. Powers of arrest previously granted or assumed to have been granted to security officers have been severely curtailed. Now they discharge their duties under the watchful eyes of an independent judiciary. Any excesses by the security personnel are punishable under the penal code; for it is not a State policy to either torture or deny the accused his basic rights.

7. The Government is more cooperative than ever before with the United Nations and with non-governmental organizations (NGOs) in the transportation of food to the war-affected areas, including those areas still under rebel control in the south of the country and in the Nuba mountains.

8. All foreign human rights activists who visited the Sudan during 1993, whether as representatives of national Parliaments, Governments, NGOs,

churches or the United Nations Secretary-General were facilitated in visiting all areas of their choice, including the war zones in southern Sudan and southern Kordofan. Examples include Mr. Gasper Biro.

9. The Government has just lifted the night curfew which has been in force since 1989 in Khartoum state, where it was loosely observed.

10. In all the areas under Government control, particularly the big towns, the behaviour of the army and popular defence force and all other security personnel has been kept under check in order to create an atmosphere of security, stability and confidence in those forces among the civilian population there. Now in Juba for instance members of both the army and the popular defence forces do not carry arms when they go to the civilian parts of the town except late at night.

11. The Government has also transported more food to all the areas in the south which are under its control.

12. The independence of the judiciary has been reaffirmed by the Revolutionary Command Council in its Constitutional Decree No. 7, dated 16 October 1993, before it dissolved itself. Its role as the chief overseer of human rights and fundamental freedoms, as enshrined in the basic documents of the Sudan (i.e. Popular Committee Act; resolutions and recommendations of the National Dialogue Conference on Peace Issues in the Sudan, 9 September-21 October 1989; Constitutional Decrees Nos. 7, 8, 9) has been further strengthened.

13. A new practice has now evolved whereby both the Minister of Justice/Attorney General and the Chief Justice regularly inspect the prisons and custody cells to ensure that the prisoners do enjoy the human rights prescribed by law.

14. It has to be emphasized here that the Sudan's document on human rights, which was issued by the National Assembly, is a real, positive development in the field of human rights for it reflects a genuine determination of the National Salvation Revolution to ensure that the citizens of the Sudan fully enjoy their freedoms and fundamental rights. The salient features of this document are as follows.

Right to life

(i) Human life is sacred and may not be harmed except in accordance with the law.

(ii) Every person has the right to the security of his person and shall not be subjected to torture, bodily or psychological harm or be subjected to any inhuman or degrading treatment.

(iii) Every person has the right to lead a good life in peace.

Right to freedom

(i) Every person is free and may not be enslaved.

(ii) Every person has the right to travel freely within the borders of the Republic of the Sudan and the right of choice of place of residence.

(iii) No person may be arbitrarily deprived of his nationality or the right to change his nationality or be denied citizenship rights or be deported from his own country except in accordance with law.

(iv) Every person has the right to freedom of thought, expression and worship and to conduct his religious rights without contravening the law or public order.

(v) Any professional or vocational group has the right to form a trade union or a society or a union in accordance with the law.

Right to equality

All people are equal before the law and shall not be subjected to discrimination on account of race, colour or skin, sex or religion; supremacy of the law shall be the basis of Government.

Right to justice

(i) There shall be no offence and no punishment except as provided by legal provisions.

(ii) The accused is presumed innocent until his conviction has been confirmed by a legal judgement before a competent court of law.

(iii) No person may be arrested or confined or put in custody or exiled or have his property confiscated or his freedom curtailed except within limits prescribed by the operative laws in the country.

(iv) Every person has the right to a fair and prompt trial in accordance with the operative procedural and penal laws and shall be afforded the right to defend himself personally or be defended by a lawyer.

Right of participation in public life

Every person has the right to participate in the various forms of public life, "Shura" (consultation) being the basis of rule and the basis of the relationship between the people and the ruler, and the nation has the right to choose its leaders at free will according to the law.

Right of protection from the arbitrariness of the ruling authorities

Every person has the right of protection against the arbitrariness of the ruling authority.

Social rights

(i) The State respects all heavenly revealed religions and sacred beliefs and protects them against any abuse and prohibits religious persecution and religious intolerance.

(ii) Every person has the right to enjoy social, health, physical and psychological care, guaranteed by the State within its means.

(iii) Every person has the right to acquire more education and culture, and parents have the right to rear their children according to their choice.

(iv) The family is the basic unit in the society and enjoys State care and protection, and every person has the right to choose the formation of his family according to law and custom.

Ownership rights

(i) The State guarantees the right of the individual to own property, singly or in partnership with others.

(ii) The State ensures private ownership for all, not to be interfered with except in the interest of the public good and within the limits of the law and with adequate compensation.

Economic rights

(i) The State ensures the just and equitable distribution of national wealth among its citizens.

(ii) Every person has the right to enjoy a good standard of living which meets the basic requirements for him and those of his family.

(iii) Every person has the right to employment and to be productive, at his own choice, in order to be able to earn his living through legal means.

(iv) Every person has the right to enjoy social security according to the operative laws of the State.

Protection of the right to privacy

Every individual shall have the right to have his privacy protected, and shall not be spied upon, and the State shall ensure the secrecy and free flow of mail, telephone and wireless transmitted messages, within the limits of the law.

Right of asylum

Every person of any nationality has the right to seek political asylum in the Sudan if his life has become unbearable in his country of origin because of political persecution, in accordance with the law, and may not be arbitrarily returned to his country of origin if that act will expose him to imminent danger.

Safeguards

Every person shall have the right to enjoy life in peace and security, and may prosecute the State or any of its agents or personnel for the violation of any of the rights mentioned in this document.

15. The many steps taken by the Revolution in order to normalize the situation in the Nuba Mountains include the following:

(a) The Government of the state of Kordofan in conjunction with the central Government in Khartoum, has initiated some development projects in the Nuba Mountains to attract resettlement of the displaced in those areas. Some families had earlier deserted the areas to avoid rebel atrocities against the civilian population there.

(b) Southern Kordofan has been made a state in order to accommodate the grievances and aspirations of the Nuba people of that region. The political participation of the people of this state in the running of their local affairs and proportional sharing of power at the national level are expected to accelerate socio-economic development in the area.

(c) In December 1993, all the tribal chiefs of the Nuba Mountains region of southern Kordofan came to Khartoum in order to congratulate President Omer Hassan Ahmed El Beshir on taking up the post of president and expressed their personal support to him and their allegiance to the National Salvation Revolution. They condemned the malicious Western propaganda which vilifies the Sudan and tarnishes its image in international circles in the field of human rights.

Ethnic dimension to the conflict in the Sudan

16. Sudan is a multiracial, multireligious and multicultural society. Racial integration took place amongst the different tribes of central Sudan of Arab and African origin. Today racial peculiarities as classified by anthropologists are not so distinguishable to foreign visitors to most parts of the Sudan. For instance the Messeria-Zurug of southern Kordofan look more African than Arab and yet have retained most of their original Arab culture, whereas the African tribes in southern Sudan are proud of their African culture. In this instance, racial barriers have been blurred. But because the northern Sudanese are both Arabs and Muslims, their culture has been Arab-Islamic in the main, and only lightly influenced by African customs and traditions, some of which are traceable to the Christian era in northern Sudan.

17. Thus by a sheer coincidence of history there seems to be a political, ethnic, religious and cultural polarization between the north and the south. On the other hand, since Islam dictates that non-Muslims convert to the Islamic faith in order to be allowed to marry Muslim girls, intermarriage between the Arabs and the Africans in the south is limited. This has limited the extent of social exposure and intercourse between the two communities, which has in turn slowed the pace and process of national integration. It has indeed had a negative impact on relations between the two ethnic groups, for it has kept alive historical suspicions and misapprehensions. Each group kept itself within its cultural and ethnic bounds and inward-looking.

18. This situation was aggravated by the British colonial policies in the Sudan (1899-1956) as well as impotent and thoughtless policies subsequently advocated, after independence, by the national governments in Khartoum.

19. The British Colonial Administration enacted the so-called "Closed Districts Ordinance" in 1936, which prohibited any contact between northern and southern Sudan and the Nuba Mountains, except by permission. Any semblance of Arab culture, whether religious or cultural, was vehemently fought by the colonialists. This policy had as its aim to ensure that the two ethnic communities were rigidly kept apart, strangers to one another in their approaches to common issues of vital interest to them all as a nation.

20. Relations between the Arabs and the Africans had historically been marred by known instances of slave trade practice by Arabs against the Africans in the south. In their drive to divide and rule, the British exploited this fact to sow the seeds of discord and hatred between the Arabs and the Africans. They capitalized on this element and projected the Arabs as the most notorious slave traders in human history, whereas the Europeans were actually the biggest slave traders in history.

21. Those policies created a negative impact in the minds of Africans, who had ever since been suspicious of Arab intentions.

22. Another negative legacy of the colonial era was that socio-economic development was accelerated in the north and neglected in the south; this legacy has always affected the north-south relationship.

23. When the Sudan gained independence in 1956 and joined the Arab League, southerners' fears and suspicions were again aroused. The northern Sudanese consider themselves Arabs and look to the Arab world for sympathy and inspiration. On the other hand the south identifies itself as African and looks towards black Africa for sympathy and inspiration. Whereas these factors in one way or another contributed to the aggravation and intensification of the war being waged in the south, it is the feeling of the south that there is no equitable sharing of political power in Khartoum that is the most serious area of discontent.

Harmonization of national legislation

24. For the southerners this situation has been caused mainly by racial prejudice, whereas the northerners believe that it has been caused by socio-economic underdevelopment.

25. Muslims account for 70 per cent of the population of the Sudan. They have strong adherence to their religion and would therefore like to live according to its tenets. The laws in the Sudan are mostly of Quranic origin. This situation is acceptable to all the Sudanese people since non-Muslims are not affected.

26. It is therefore not quite apparent whether Sudanese legislation, regulations and practices are not in conformity with the provisions of the Convention. There is no way any law whose origin lies in the Quran can be changed. The only course possible is to ensure through legislation that all non-Muslims enjoy equal rights. But if there has been a discrepancy in the manner of the enforcement of the laws and the Convention then they are particular individuals who bear responsibility for acting contrary to the law; for state policies are geared towards combating racism and therefore abide by the provisions of the convention. The law enforcement agents who act ultra vires or contrary to the law are punished under the Sudanese Laws.

Demographic composition of the population

27. There has never been a successful population census in the Sudan, except the first, which was carried out in 1956 by the United Nations. The population of the Sudan was then roughly 9 million, with the population of the south accounting for one third of that figure. According to the census results, Arabs made up 39 per cent, Africans 61 per cent, Muslims 70 per cent, and Christians and those professing African religions 30 per cent of the population.

28. At present rural areas, where the majority of the tribal farmers and nomads live, account for 80 per cent of the population. Subsequent population estimates had only been based on that first United Nations census of 1956.

29. The results of the most recent (1993) population census have not yet been published. Informed sources in the Department of Statistics confirmed that the results would only be announced in three months time but not before that.

30. However, it is believed that the war raging in the South has greatly reduced the population of southern Sudan. Many southern Sudanese live as refugees in neighbouring countries.

Refugees

31. By its sheer size and geographical location, the Sudan is a neighbour to eight countries. Any slight political strife in any of those countries has serious security and socio-economic repercussions on the Sudan. The Sudan has hosted more than 3 million refugees, most of them from the ever-turbulent Horn of Africa region.

32. During the last three decades those refugees have shared with the Sudanese people the meagre economic resources. There are more than 1 million refugees still living in the Sudan. They fall into the following groups:

Ethiopians	500,000
Eritreans	300,000
Chadians	Several thousands
Ugandans	Several thousands
Zaireans	Several thousands
Others	Several thousands

The international organizations (United Nations and NGOs) render them little assistance.

33. On the other hand, there are more than 250,000 Sudanese refugees in neighbouring African countries. The policy of the Government of the Republic of the Sudan has been to encourage the voluntary repatriation of those refugees back to their countries of origin.

Immigrant workers

34. There are no available statistics indicating the exact numbers of immigrant workers, if any, in the Sudan. The situation is made difficult by the fact that Sudan has very long borders with its neighbours and cannot effectively control them. Sudan had played host to millions of the citizens of its neighbours fleeing from political strife in those countries at one point of time or another.

35. The other reason is that cultural and ethnic affinities across Sudan's international borders with those countries render it almost impossible to identify any people who can be classified as foreigners. Members of those common ethnic communities are always at home on either side of the international borders. This is true of all the international borders of the Sudan without exception: Kenya, Uganda, Zaire, Central African Republic, Chad, Libya, Egypt, Ethiopia and Eritrea.

Findings of the Commission of Inquiry appointed on 25 November 1992

36. It is regrettable that the findings of the Commission of Inquiry appointed on 25 November 1992 have not yet been made public as the process of collecting the necessary data and information proved tedious and complex. More, fresh information is still being received by the Commission. This might further delay the publication of the findings of the Commission, which will eventually be made public.

Technical assistance from the advisory services programme of the Centre for Human Rights

37. Having amply displayed in action and in writing, its willingness to cooperate with the Committee on the Elimination of Racial Discrimination in its drive to implement effectively the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination, the Government of the Republic of the Sudan will utilize technical assistance from the advisory services programme of the Centre for Human Rights in the preparation of its next report.